

5/10/12  
by (AA)

U S D C  
\_\_\_\_ district of \_\_\_\_

UNITED STATES

VS

DEFENDANT NAME

Case 12-CR-34567

Declaration and verified  
motion to dismiss  
and vacate action  
for cause.

Washington state } Verification & Motion  
County of King }

COMES NOW Inmate Proper Name, herein  
Petitioner, currently being imprisoned, transferred,  
and proceeded against under the fictitious name  
DEFENDANT NAME, under color of the  
above captioned action.

Petitioner moves the court to vacate its  
action for cause pursuant to its Court  
Rules (CrR 33 and/or 12) and in violation of  
the clearly established law and statutes, of  
which ~~DEFENDANT NAME~~ Petitioner has recently become  
aware, referenced herein below:

Federal jurisdiction is not to be presumed  
or implied, and a cause is without  
jurisdiction until the contrary  
appears. BELLSOUTH COMMUNICATIONS



(cont.)

vs MCI, 317 F3d 1270;

JACKSON TRANSIT AUTHORITY VS

LOCAL DIVISION 1285, AMALGAMATED

TRANSIT UNION, ~~475~~ US 15.  
457

further:

a "United States District Court" is  
an Article IV, section 3 (needs  
rules & regulations for a territory) court;

a "district court of the United States  
is an Article III court. BALZAC

VS ~~UNITED STATES~~ <sup>PUERTO RICO</sup>, 258 US 298;

MOOKINI VS UNITED STATES, 303

US 201.

additionally:

Where Congress includes particular  
language in a statute, and omits it  
in another place or statute, it is  
generally presumed that Congress acts  
intentionally and purposely in the  
disparate inclusion and omission.

RUSSELLO VS UNITED STATES, 464 US 16

and:

Congress intended its difference  
in language. BURLINGTON NORTHERN  
VS WHITE, 584 US 53

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myn to VACATE



(cont.)

Reading Congress acts in light of clearly established law, one finds that Congress act(s) codified at 28 USC 251 expressly grants the Court of International ~~Trade~~ Trade Article III judicial powers as it is authorized to do by Article III of the Constitution. A review of Congress act(s) codified at 28 USC 152 finds that Congress expressly included Article III Judicial powers for Bankruptcy Judges. Conversely, in its Acts codified at 28 USC 81 Through 28 USC 144 creating, and delegating authority to "United States District Courts" Congress omitted any ~~reference~~ language delegating and Article III judicial authority. Further clarifying Congressional intent, Congress expressly delegated a very narrow scope of Article III jurisdiction ONLY in a very narrow scope of CIVIL actions as a "Supplemental Jurisdiction" to the United States District Courts as codified at 28 USC 1367.

Congress further clarifies its intent in delegating jurisdiction relating to

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mtn to vacate



(cont.)

Criminal matters in its enactment(s) codified at 18 USC 23, using the term "includes", in exclusive term by stating "Court of the United States" includes the District Court of Guam, District Court for the Northern Mariana Islands, and District Court of the Virgin Islands, omitting any reference to ~~the~~ and United States District Court located in or upon the soil of any Union State.

FURTHER, a review of the record in the above captioned action fails to evidence any delegation of Article III judicial authority over the purported criminal subject matter therein.

WHEREFORE it appears the courts jurisdiction was never lawfully invoked, making the action void for want of jurisdiction and further, the statutes and clearly established caselaw make it appear the ~~the~~ courts jurisdiction cannot be invoked for a criminal judicial proceeding.

Petitioner's counsel failed to inform petitioner of the above referenced clearly established law and statutes,



(cont.)

Petitioner discovering those elements of law and statute through his own study and research creates the appearance of ineffective assistance of counsel, as petitioners actions and the decisions of the court to participate in a matter without jurisdiction properly and lawfully laid would very likely been different if Petitioner had effective counsel.

\* See optional  
Paragraph on  
back

Petitioner hereby moves to court to vacate the above captioned action and return Petitioner to his liberty for cause, and as it appears the Courts jurisdiction cannot be lawfully invoked, to dismiss and vacate WITH PREJUDICE.

Given This — day of —, 2012 under penalty of bearing false witness pursuant to the law of the Almighty Creator,

Signature

Inmate Proper Name

Petitioner

Witnesseth:

X \_\_\_\_\_

X \_\_\_\_\_